



To: Annette Ramirez/ClerkRec/COSLO@Wings,
Cc:
Bcc:
Subject: Fw: Agenda Item Document
From: Robert Fitzroy/Planning/COSLO - Friday 01/09/2015 02:24 PM

History: This message has been forwarded.

Hi Annette,

We received additional correspondence (see attachment below) from the appellant to the Centrally Grown project that will be heard by the BOS at the next meeting (Jan 13th). Can you please make this available to them? Thanks.

Rob Fitzroy – Environmental Resource Specialist
Planning & Building Department
(805)781-5179
www.sloplanning.org



----- Forwarded by Robert Fitzroy/Planning/COSLO on 01/09/2015 02:21 PM -----

From: Celeste Goyer <celestegoyer@gmail.com>
To: rfitzroy@co.slo.ca.us
Date: 01/08/2015 10:40 AM
Subject: Agenda Item Document



Khaloghli-Appeal-Centrally-Grown-BOS-Hearing.compressed.pdf

Hi Rob,

Can you please add the attached letter to the online Agenda Item documents for the hearing? This was sent by our attorney to all the Supervisors and it should be part of the public documents.

Please confirm.

Thank you,

Celeste

Celeste Goyer
Executive Assistant to Khosro Khaloghli

Cambria, CA 93428

CYNTHIA HAWLEY
ATTORNEY AT LAW

January 5, 2015

County of San Luis Obispo Board of Supervisors

Re: Minor Use Permit DRC2012-00119 (under appeal)
7432 Exotic Gardens Drive, Cambria CA
(APN: 013-381-002)

Dear Chairman Gibson and Members of the Board of Supervisors:

I represent Dr. Khosro Khaloghli in his appeal of the Centrally Grown project at 7432 Exotic Gardens Drive in Cambria (Project).

Based on the following discussion my client respectfully requests that you deny the minor use permit and negative declaration and require approval of a development plan and certification of an environmental impact report for the entire Project as required by law prior to approval of any additional permit and prior to allowing any use of the parcel.

As you know, the Project shown in the attached photos (See Attachment A) has already been developed prior to issuance of any coastal development permit. Development by Centrally Grown that has been allowed without a coastal development permit includes, new construction above the allowed height limit in the scenic viewshed, structural additions to the footprint of the former Hamlet restaurant, grading, contouring, excavation and trenching, development of a below- and above-ground water treatment system, removal of vegetation, landscaping, landscape irrigation, installation of underground utilities including plumbing and electrical wiring for lighting and multiple outdoor food and beverage service “kiosks” including outdoor pizza ovens, demolition of existing structures, and remodeling of an existing out-building. Since there has been no coastal development permit application for the Project and no staff report describing the Project that has actually been constructed, the full extend of the Project is unknown to your Board and to the public.

Evasion and violation of multiple statutory and case law requirements under the Coastal Act, CEQA, and the County’s Local Coastal Program and Coastal Zone Land Use Ordinance (CZLUO) were facilitated by piecemealing the Project – by carving out the majority of the development and allowing it to proceed under the guise of the illegal “substantial conformity determination” as described more fully below. The remainder of the Project, included in the minor use permit before you today – the remodeling of existing structures – is now moot because the structures were illegally demolished without a coastal development permit. Construction of new buildings to replace those demolished as planned by Centrally Grown (Attachment B) may not be allowed to proceed by a separate piecemealed permit but must be included in an application for all development plan that includes all proposed uses and development on the site.

P.O. Box 29 Cambria CA 93428
805-927-5102 Fax 805-927-5220

Agenda Item No: 26 • Meeting Date: January 13, 2015
Presented By: Celeste Goyer
Rec'd prior to the meeting & posted on: January 09, 2015

THE MINOR USE PERMIT MUST BE DENIED BECAUSE THE PROJECT DESCRIBED IN IT NO LONGER EXISTS.

As stated in the initial study, the minor use permit for this Project was primarily “to remodel and change the use of existing structures” The MUP is to allow “interior and exterior structural modifications to existing on-site structures to meet current Building Code requirements.” All but one of structures that were proposed to be remodeled have been illegally demolished by the developer without a permit. Construction of new structures is “development” under the Coastal Act for which a CDP is required. If the developer intends to reconstruct new buildings on the sites of those demolished, he must apply for a coastal development permit / development plan as described below to do so.

THE PROJECT HAS BEEN PIECEMEAELED INTO TWO PARTS AND THE CUMULATIVE IMPACTS HAVE NOT BEEN CONSIDERED IN VIOLATION OF CEQA AND THE COASTAL ACT.

As indicated above, the Project was unlawfully divided into two parts with separate permitting for the remodeling of out-structures under the MUP and all other development allowed to be carried out under the “substantial conformity determination”. The Project is described within the MUP as if remodeling and changes in use were the whole project while all of the development seen in the photos slipped by with no review of environmental effects or LCP consistency under the “substantial conformity determination”. The development approved by the “substantial conformity determination” seen in the provided photos represents, among other things, potential effects related to intensity of land use, intensity of water use, erosion and sedimentation, water quality, air quality, light pollution, noise pollution, traffic congestion, dangers to humans at the intersection of Highway 1 and Moonstone Beach Drive.

The mitigated negative declaration must not be approved because the Project has been piecemealed in violation of CEQA.

Well established CEQA case law, including two Supreme Court rulings, forbids piecemeal review of a project and mandates specifically that a project may not be “chopped” into multiple smaller ones that cumulatively may have negative environmental consequences. *Laurel Heights Improvement Association of San Francisco Inc. v. Regents of the University of California* (1998) 47 Cal.3d 376, 396; *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284), *Communities for a Better Environment v. City of Richmond* (2010)184 Cal.App.4th 70, 98. The cumulative effects of the Project have not been reviewed as required by CEQA. As a result, the County may not legally approve the mitigated negative declaration that addresses only a piece of the whole Project and the MND should be denied.

The minor use permit must be denied because the project has been piecemealed in violation of the Coastal Act.

Piecemealing the review of a project by chopping it into separate pieces is also prohibited under the Coastal Act. *City of Carmel-By-The-Sea v. Board of Supervisors* (1986) Cal.App.3d 299, 243; *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284. Coastal Act policy §30001.5 requires consideration of the *cumulative impacts* of a project *before* project approval. Where the impacts of the whole project to coastal resources are not considered it is

impossible to determine whether a project is consistent with the resource protection requirements of the Local Coastal Program.

Because the Project was “chopped” into two separate pieces for separate approvals, the MUP does not include consideration of the impacts to coastal resources of the development carried out under the “substantial conformity determination”. And there has been no review of the impacts the Project may have on coastal resources under the “substantial conformity determination” which was issued by an employee without any public hearing. As a result, the consideration of the cumulative impacts of the whole Project has not been provided and the Project may not be approved until they are considered.

The County must consider the cumulative effect of the Project in relation to other planned development on the North Coast before project approval.

CEQA requires an analysis of the cumulative effects a project may have on the environment in conjunction with reasonably foreseeable future projects. According to the Second District in the case of *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306, the purpose for this requirement is obvious in that “.... consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment.”

Coastal Act policy 30001.5 also requires consideration of the cumulative impacts of a project in relation to other future development *before* project approval. *Stanson v. San Diego Coast Regional Commission* (1980) 101 Cal.App.3d 38, 47-48.

Pages 4-7 to 4-8 of the North Coast Area Plan provide specific information about additional development North Coast Area that is not only reasonably foreseeable but planned for San Simeon Point and Cove. More specifically, development planned to occur within less than six miles of the Exotic Gardens site includes:

- ◆ A resort in the San Simeon Point area including a lodge of approximately 250 rooms, restaurant, cocktail lounge, convention/meeting facilities, tourist cottages, golf course, swimming pool, and tennis courts.
- ◆ Development planned for approximately three acres at San Simeon Cove near the Sebastian Store includes restaurants, specialty retail shops, museums, art galleries, and marine and boating goods.
- ◆ Development of a recreation vehicle park north of San Simeon State Beach.
- ◆ Development adjacent to the Hearst Castle staging area involves approximately 10 acres for a 150 unit motel and specialty retail businesses including eating establishments, jewelry, cameras and art galleries, picnic areas and interpretive tours.

Before approval of the Project the County must consider the cumulative effects of the Project in combination with other planned development in the North Coast in relation to, among other things, traffic circulation, light pollution, water availability and other public services, air quality, noise, water and hydrology, population and housing, and agricultural resources.

The County may not legally approve the Project or an environmental determination without considering whether the cumulative effects of this Project in combination with other planned development as described above would be cumulatively considerable. “Cumulatively considerable under CEQA means “... that the incremental effects of an individual project are significant when viewed in connection with the effects of probable future projects.”

THE PROJECT IS NOT IN COMPLIANCE WITH CEQA’S INFORMATION DISCLOSURE REQUIREMENTS BECAUSE RELEVANT INFORMATION HAS BEEN WITHHELD FROM THE BOARD OF SUPERVISORS AND THE PUBLIC.

Section 21005 of the California Environmental Quality Act establishes the State’s policy that noncompliance with CEQA’s information disclosure provisions from being presented to a public agency may constitute a prejudicial abuse of discretion. Under CEQA, information disclosure includes an accurate project description and the gathering of information to undertake adequate environmental analyses. *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

There is no accurate project description, no complete identification of possible impacts, and no complete determination of mitigation measures because a significant portion of the Project and virtually all of the Project that involved disturbance of land has been approved by the “Substantial Consistency Determination” outside of any public hearing. Information about the complete project and its possible impacts has been *withheld* from Board of Supervisors and the public by way of using the “Substantial Consistency Determination” such that informed public decision-making has been and is precluded. As a result, the County failed to include relevant information about the project into its analysis of its impacts and thereby precluded informed decision making and informed public participation in violation of CEQA. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 711; *Laurel Heights Improvement Association of San Francisco Inc. v. Regents of the University of California* (1998) 47 Cal.3d 376, 403-405.

In addition, the information related to remodeling of structures on which the conclusions within the initial study and mitigated negative declaration are based is inaccurate since the structures have been demolished and the MND may not be approved based on that information.

THE “SUBSTANTIAL CONFORMITY DETERMINATION” IS NOT A VALID LEGAL PERMIT.

Under Coastal Act §30600 and the San Luis Obispo County Coastal Zone Land Use Ordinance §23.01.031 *all development* in the coastal zone requires a coastal development permit. The “substantial conformity determination” (Attachment C) is not a coastal development permit.

Coastal Zone Land Use Ordinance §23.01.034 explicitly prohibits any use of land unless the proposed use satisfies *all* applicable requirements of the code.

Section 23.01.034 explicitly prohibits any use of land and any buildings, and prohibits *approval* of any use of land and any buildings unless the proposed use or building satisfies “all applicable requirements of this code”.

The Project is “development” that is prohibited without a coastal development permit.

CZLUO §23.03.040(3) mandates that “[N]o development” as defined “... shall be undertaken within the coastal zone without first obtaining the land use permit required by this chapter or Chapter 23.08 [special uses] of this title, unless exempted from such permit requirements by this section or the Coastal Act.” No exemption exists or is claimed for this project.

Coastal Act §30106 and the Coastal Zone Land Use Ordinance §23.03.040(1) define development as, in applicable part, “...the placement or erection of any solid material or structure... grading, removing any materials; change in the density or intensity of use of land change in the intensity of use of water construction, reconstruction, demolition, or alteration of the size of any structure....”. The definition specifies that a “structure” includes “.... any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.”

As you know, according to Coastal Act §30604, after certification of the Local Coastal Program, the ground for issuance of the CDP is “...conformity with the certified local coastal program.” Please review the included photos to see for yourself the extent of development that has been carried out under the guise of the “Substantial Conformity Determination in violation of the Coastal Act and the County’s LCP.

A “substantial conformity determination” is not a legal development permit and allowing development based on it is a violation of multiple state and local laws.

There is no reference to “substantial conformity determination” or “substantial conformance determination” in Coastal Zone Land Use Ordinance (CZLUO) Title 23. It was never legislated by the Board of Supervisors or certified by the Coastal Commission as part of the LCP. There is no authority for making any such determination and no legislated procedure or criteria for approval of development in the coastal zone by issuance of a “substantial conformity determination” based on that finding.

There is no such standard as “*substantial* conformity” for development in the coastal zone. The standard for issuance of a coastal development permit is nothing less than *conformity with the LCP* and the County is authorized to approve development in the coastal zone only when the development is consistent with, or conforms to, the LCP, and only when the finding of consistency is supported by evidence in the record.

In spite of these clear laws enacted to protect public coastal resources for the people of the state of California, a single County employee approved the majority of the development at the Exotic Gardens site based on the erroneous standard that the development was in *substantial* conformity – not with the LCP but with the original 1980 permit for the restaurant and current planning standards.

The “substantial conformity determination” denies the public’s statutory and due process rights to notice, public hearing, and opportunities to comment and appeal approval of development in the coastal zone.

At Coastal Act §30006 the California Legislature specifically grants to the public the statutory “... right to *fully* participate in decisions affecting coastal planning, conservation, and development...” which includes “... the widest opportunity for public participation.” Here, the County has denied all public participation in its decision to allow the development of Exotic Gardens as seen in the Exhibit A photos without one public hearing based on the approval of a single County employee of the “substantial conformity determination”.

By allowing development under a “substantial conformity determination” the County evaded Coastal Act and LCP mandatory findings of LCP consistency and mandatory public participation in the public hearing process for issuance of a coastal development permit. This amounts to a denial of statutory and due process rights to notice, hearing and opportunity to comment on and appeal the whole Project.

Please note that use of the “substantial conformity determination” is closely linked to piecemealing a project in that it is by way of the “substantial conformity determination” that parts of a project are carved out for piecemeal approval, and to evasion of CEQA and Coastal Act requirements since the “substantial conformity determination” is approved by County employees without public hearing and all other procedural requirements.

APPROVAL OF THE PROJECT IS AN ABUSE OF DISCRETION BECAUSE IT WAS APPROVED BASED ON AN ERRONEOUS STANDARD.

An administrative agency decision that is based on an erroneous legal standard is a failure to proceed in the manner required by law and an abuse of discretion. *City of Marina v. Board of Trustees of the California State University* (2006) 30 Cal.4th 341, 355; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 88. The mandatory standard for approval of a coastal development permit is “...conformity with the certified local coastal program” under Coastal Act §30604. Approval of development base on a standard of “*Substantial Conformity*” with the LCP or with an existing permit is an erroneous legal standard.

This abuse of discretion has already occurred since the decision to allow the development based on the “substantial conformity determination” was already made and the County already decided to allow the development to be carried based on that erroneous standard. The County must apply the mandatory standard of conformity to the LCP including all CZLUO requirements to approval of a development plan for all development at the Exotic Gardens site.

APPROVAL OF THE MUP WOULD NOT BE VALID BECAUSE THE PROJECT REQUIRES A DEVELOPMENT PLAN.

According to Table O of the Land Use Element Coastal Zone Framework for Planning, restaurants on land designated as recreation are subject to special standards. (See pages 6-23 and

6-29) Again, under the Framework for Planning, *standards are mandatory*, and not discretionary. (See page 1-7) These standards are set out in the Coastal Zone Land Use Ordinance at §23.08.208. Subsection (b) requires that a development plan, not a minor use permit, is required for restaurants in recreation land use categories. The Project requires a development plan and approval of the Project without a development plan cannot be legally accomplished. The minor use permit is not relevant to approval of the Project, and because the Project requires a development plan as a mandatory standard, the Board of Supervisors does not have the authority to approve the Project by way of minor use permit and the MUP should be denied.

THE PROJECT REQUIRES A FULL ENVIRONMENTAL IMPACT REPORT UNDER CALIFORNIA CODE OF REGULATIONS §15065 BECAUSE ITS EFFECTS ARE CUMULATIVELY CONSIDERABLE AND IT COULD HAVE ADVERSE EFFECTS ON HUMANS.

As discussed above, CEQA requires analysis of the cumulative effects a project may have on the environment in conjunction with reasonably foreseeable future projects. According to the Second District in the case of *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306 the purpose for this requirement is obvious in that “.... consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment.”

In addition, CEQA Guidelines §15065, entitled “Mandatory Findings of Significance” *require* a lead agency such as the County to make a formal finding that a project may have significant effects on the environment and thus require preparation of an EIR where substantial evidence exists that, among other things:

(3) *The project has possible environmental effects that are individually limited but cumulatively considerable.* “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The Centrally Grown Project involves possible environmental effects to, among other things, traffic circulation, light pollution, water availability and other public services, air quality, noise, water and hydrology, population and housing, and agricultural resources that may be individually limited but cumulatively considerable and potentially disastrous when viewed in connection with the effects of development on the Hearst Corporation property which is not only probable but planned.

As discussed more fully below, Dr. Khaloghli has informed the County in multiple documents that the traffic caused by the significant intensification of use of the Exotic Gardens site itself will cause risks of harm to people traveling in busses and cars and on foot at the intersection of Highway 1 and Moonstone Beach Drive. Yet, no traffic study has been done and there is no evidence in the record to support a finding that there will be no significant impacts on traffic.

The County must now go back and, according to CEQA Guidelines §15065 make a mandatory finding of significance and prepare a full EIR for the Project.

THE PROJECT IS IN FUNDAMENTAL VIOLATION OF THE COASTAL ACT BECAUSE THE PROJECT HAS BEEN CARRIED OUT WITHOUT A COASTAL DEVELOPMENT PERMIT.

As discussed above, Coastal Act §30600 requires that any person wishing to undertake any development in the coastal zone must obtain a coastal development permit. In this case, the County has allowed development as defined by the Coastal Act to be carried out prior to issuance of a coastal development permit in violation of this fundamental law that is the procedural heart of protection of public resources in the coastal zone.

THE DEVELOPMENT IS IN THE COASTAL COMMISSION'S DUAL PERMIT JURISDICTION AND THE COUNTY HAS ALLOWED THE PROJECT TO BE CARRIED OUT BEFORE ISSUANCE OF THE COMMISSION'S CDP.

Coastal Act §30601 provides a “dual permit jurisdiction” where a coastal development permit is required by both San Luis Obispo County and the Coastal Commission. As you know, one of the geographic areas within the dual permit jurisdiction is 300 feet inland from the top of a coastal bluff.

Attached is a survey of the Project site showing that the site is within 300 feet of the top of the ocean bluff. After approval of the local CDP, the developer is required to submit a separate permit application with the Coastal Commission for issuance of the Commission's permit *prior to carrying out the development*. (See Attachment D.)

However, in seeming disregard for the Coastal Commission's jurisdiction and authority, the County unlawfully issued construction permits for, and allowed all of the construction described above and as shown in the included photos, before issuance of the required permit from the Coastal Commission.

THE PROJECT DOES NOT CONFORM TO AGRICULTURAL POLICY 3.

The County's LCP Policy Document is part of the County's Land Use Element. On p. 6-15 of the Coastal Plan Policies Summary, Policies for Agriculture, the document clarifies that the Policies for Agriculture apply to “... development in and adjacent to agricultural areas.” The policies apply to the Exotic Garden site, which is designated as recreation, because it is adjacent to agricultural areas.

Agriculture Policy 3 requires that all development proposals shall include “[A] *demonstration* that the proposed development is sited and designed to protect habitat values and will be compatible with the scenic, rural character of the area.” The record contains no demonstration that the Project “... is sited and designed to protect habitat values and will be compatible with the scenic, rural character of the area.”

Since Policy 3 is required to be implemented as a standard, its implementation is mandatory, such that the Project application must be denied and any subsequent application must include the demonstration required by Policy 3.

THE PROJECT MAY NOT BE PERMITTED BECAUSE ADDITIONAL INFORMATION AS REQUIRED BY CZLUO §23.02.035 WAS NOT PROVIDED IN THE APPLICATION.

Even if the Project could be approved as a minor use permit instead of a development plan as required, it could not be approved due to failure to provide information required under CZLUO §23.02.035. This section *requires* submission of additional information in an application for minor use permits and development plans prior to acceptance of the application as complete. The additional information includes, among other things, a noise study “[W]here required by the noise element or where the project adjoins a potential noise generator, and a visual analysis “[F]or applications that propose development along significant visual corridors.” In this case, the Project adjoins Highway One, a potential noise generator, and is development along Highway One, which is “... designated a State Scenic Highway and National Scenic Byway from San Luis Obispo to the Monterey County line.”

Therefore, the MUP must be denied and any subsequent application for a development plan at the Exotic Gardens site must include the required noise study and visual analysis.

PROJECT CHANGES WERE ALLOWED WITHOUT REQUIRED ANALYSES AND FINDINGS IN VIOLATION OF CZLUO §23.02.038.

In order to ensure that development is consistent with the LCP, Coastal Zone Land Use Ordinance §23.02.038 mandatorily restricts the development that is built to the development that was approved; that is, development is restricted to what is shown on the project plans approved as part of a permit application.

Deviation of project design or construction may occur only after submission of a written request accompanied by supporting materials. The Planning Director is authorized to approve a change only upon verification that the post-permit project change conforms to Title 23 which includes a finding of conformity with the Local Coastal Program. The change also requires an environmental determination from the Environmental Coordinator. There have been multiple post-approval changes to this project in violation to §23.02.038. No evidence of the required written request, findings for LCP consistency, or environmental determination were provided to my client after he requested documentation of project changes.

THE NEGATIVE DECLARATION FAILS TO SUPPORT FINDINGS OF NO SIGNIFICANT IMPACTS WITH FACTS IN THE RECORD

The Project’s initial study concludes that impacts caused by the Project will be less than significant without support of facts in the record. For example, my client has repeatedly emphasized that the Project may cause threats to people in vehicles and pedestrians at the intersection of Highway One and Moonstone Beach Drive due to the increase in the intensity of use of the site. The developer proposes to host busloads of tourists at a retail deli and expanded

indoor and outdoor eating and drinking areas and to provide outdoor concerts. The MND does not provide facts to support its findings including, but not limited to, the finding that the Project will have no significant effects on traffic and circulation.

THERE ARE SERIOUS IMPACTS RELATED TO TRAFFIC AND PARKING THAT ARE NOT ADEQUATELY ADDRESSED IN THE MITIGATED NEGATIVE DECLARATION.

My client believes that traffic impacts for the Centrally Grown project are potentially very serious threats to public safety, both vehicular and pedestrian. The piecemealing of the project into multiple permits has prevented the full impacts of the development from being studied by any of the responsible agencies and from an informed participation by the public, as mandated by law.

In the specific case of traffic impacts and parking issues, these failures of oversight could have very serious outcomes and are addressed separately below.

The MUP and MND fail to provide adequate information and analyses related to traffic.

The minor use permit fails to provide adequate information about traffic. The staff report for the Minor Use Permit application stated that Cal Trans had declined to comment on the permit and believed that the new uses would not increase vehicle trips to the site. No supporting findings were offered to substantiate such an unlikely claim. Even a cursory review of the changes to the business model from the historical uses by the Hamlet restaurant would show that a substantial increase in vehicle trips is without doubt going to happen if the proposed development is allowed. Significantly increased hours of operation and employee numbers, extensive new outside customer serving space, significantly increased intensity of use for the entire downstairs of the main restaurant building, and Centrally Grown's intensive marketing efforts will undoubtedly create vehicle trip numbers far beyond historical uses. To ignore these impacts is to be complicit in creating a public hazard at this intersection. No analysis has been provided in violation of the Coastal Act and CEQA requirements for informed decision making.

The total added square footage for the proposed project above and beyond the prior use is 4,969 square feet indoors and outdoors, of retail and dining space. The proposed change in use of the residence to vacation rental will also impact traffic. The existing square footage of the first and second floors of building 1 utilized by the Hamlet Restaurant for historical use totals 6,465 square feet. The 1980 approval (Attachment E) limits restaurant and retail uses to this structure. The proposed project would create more than a 56% increase in dining and retail space. If the project had not been piecemealed, these radical changes from the historical approved uses would have been properly studied in the environmental review. CEQA and the Coastal Act require analyses of the impacts or the proposed intensity of use of the site.

Critical information that would be provided by a traffic study and a current vehicle count for the Moonstone Beach intersection at Highway One is essential. There is no basis for a finding that the proposed project will have no impacts on traffic circulation and safety due to increases in vehicle counts and the absolute void of information related to impacts to traffic circulation and safety precludes informed decision making.

Following are the traffic census numbers for the Highway One and Moonstone Beach Drive, at the nearest census points to the project:

- ◆ Highway One 2013 Traffic Census at Hearst Castle: Peak Hour Southbound 900 vehicles per hour.
- ◆ Highway One 2013 Traffic Census at Ardath/Main Street: Peak Hour Northbound 900 vehicles per hour.
- ◆ Moonstone Beach north of Weymouth, last traffic census 2011: Peak Hour 1500 vehicles per hour.

These numbers should be considered in conjunction with the planned development at San Simeon Point. This large-scale resort development will significantly impact peak vehicle numbers, and to fail to consider the cumulative effects on the Centrally Grown project's intersection safety is in violation of CEQA and the Coastal Act but irresponsible.

The MUP and MND fail to provide adequate information and analyses related to parking.

The MUP was provisionally approved by Planning & Building and the Public Works Dept. on July 1, 2013 with a site plan showing 39 existing parking spaces in the upper lot, 2 handicap, 4 motorcycle, and 2 existing residence spaces, plus 28 in the unpaved 'overflow' area on the northeast portion of the parcel, for a total of 75 planned spaces.

While project changes have been allowed to proceed in violation of the CZLUO such that concrete information about the project description is not available, it is our understanding that the applicant has made significant changes in the parking plan since that date, and the overflow lot was either eliminated completely or reduced in size to 10 or fewer spaces, due to drainage or erosion control restrictions. In either case, that leaves a significant deficit in the number of spaces for the project. According to the Minor Use Permit and the Staff Report, 63 spaces are required, including the 20% reduction for shared use. If the 28 overflow spaces have been eliminated, the total provided is now 47, which is 16 below the required number for the uses envisaged by the MUP.

All required parking spaces for this zoning use must meet standards for wheel stops, size, layout, turning radius and surface material. The parking in the 'overflow' area must also meet these standards. As submitted, it is not compliant with standards.

In addition, Public Works stated in their response to the MUP that encroachment permits would be needed and an ordinance would have to be written for the parking spaces that extend over the property line into the public right of way, as noted on Page 1 of Attachment 4 of the Staff Report. To our knowledge no encroachment permit or ordinance have been approved such that the project may not be approved. Any spaces in the public right of way cannot be counted toward the required total for the business use. A public review of the parking plan including accurate information should be conducted prior to approval of the Project.

Accurate information is not available related to whether the Project includes proper access for tourist buses, delivery trucks, and emergency vehicles. Information confirming that the revised parking lot dimensions are adequate to allow fire trucks to turn around is not available. While

the applicant has stated his intention to invite tour buses to drop passengers at the site, there is no information that confirms that required turning radiuses exist when the lot is full.

My client has grave concerns – that have received no attention from Public Works, Cal Trans or County Planning and Building – about how parking will be accommodated when the on-site lots are full. Seasonal peak volumes and permit-exempt events will create conditions where patrons have to find parking off site and no adjacent additional parking areas are available on the east side of Highway One. There is no safe alternative to on site parking. Patrons will be forced to park on Moonstone Beach Drive and walk across Highway One. This will create an extremely hazardous situation at this uncontrolled intersection. Again, this amounts to a serious void of information that is missing from the decision making process.

Also, the so-called ‘mitigations’ to balance the inadequate parking that have been offered by the applicant are voluntary in nature--shuttles for customers and employees. Anyone with experience in business is aware that customers prefer to drive themselves, as do employees. The basic, inescapable fact that would have been obvious if the project had not been piecemealed and if an EIR had been conducted as required in this case is that there is not adequate parking available on this site for the intensity of use that Centrally Grown proposes.

The proposed Project should be approved only after all needed information is available for environmental review.

In conclusion, my client urges the Board to deny approval of the Minor Use Permit and the Negative Declaration for the Centrally Grown project and to require a complete coastal development plan approval with an environmental impact report for the project as a whole before any further unpermitted development is allowed to proceed and prior to use of the site.

Thank you for your consideration of the above.

Best regards,

Cynthia Hawley

Attachment A: Photos of Site

Attachment B: Memo re planned development of new structures

Attachment C: Substantial Conformance Determination

Attachment D: Survey of site

Attachment E: 1980 Permit

cc:

Dr. Charles Lester, Executive Director, California Coastal Commission

Mr. James Bergman, Planning Director, San Luis Obispo County Dept of Planning and Building

Mr. Dan Carl, Deputy Director, California Coastal Commission

Mr. Daniel Robinson, Coastal Planner, California Coastal Commission

My client has grave concerns – that have received no attention from Public Works, Cal Trans or County Planning and Building – about how parking will be accommodated when the on-site lots are full. Seasonal peak volumes and permit-exempt events will create conditions where patrons have to find parking off site and no adjacent additional parking areas are available on the east side of Highway One. There is no safe alternative to on site parking. Patrons will be forced to park on Moonstone Beach Drive and walk across Highway One. This will create an extremely hazardous situation at this uncontrolled intersection. Again, the lack of analysis of these conditions amounts to a serious void of information that within the decision making process.

Also, the so-called 'mitigations' to balance the inadequate parking that have been offered by the applicant are voluntary in nature--shuttles for customers and employees. Anyone with experience in business is aware that customers prefer to drive themselves, as do employees. The basic, inescapable fact that would have been obvious if the project had not been piecemealed and if an EIR had been conducted as required in this case is that there is not adequate parking available on this site for the intensity of use that Centrally Grown proposes. The proposed Project should be approved only after all needed information is available for environmental review.

In conclusion, my client urges the Board to deny approval of the Minor Use Permit and the Negative Declaration for the Centrally Grown project and to require a complete coastal development plan approval with an environmental impact report for the project as a whole before any further unpermitted development is allowed to proceed and prior to use of the site.

Thank you for your consideration of the above.

Best regards,



Cynthia Hawley

Attachment A: Photos of Site

Attachment B: Substantial Conformance Determination

Attachment C: Memo re planned development of new structures

Attachment D: Survey of site

Attachment E: 1980 Permit

cc:

Dr. Charles Lester, Executive Director, California Coastal Commission

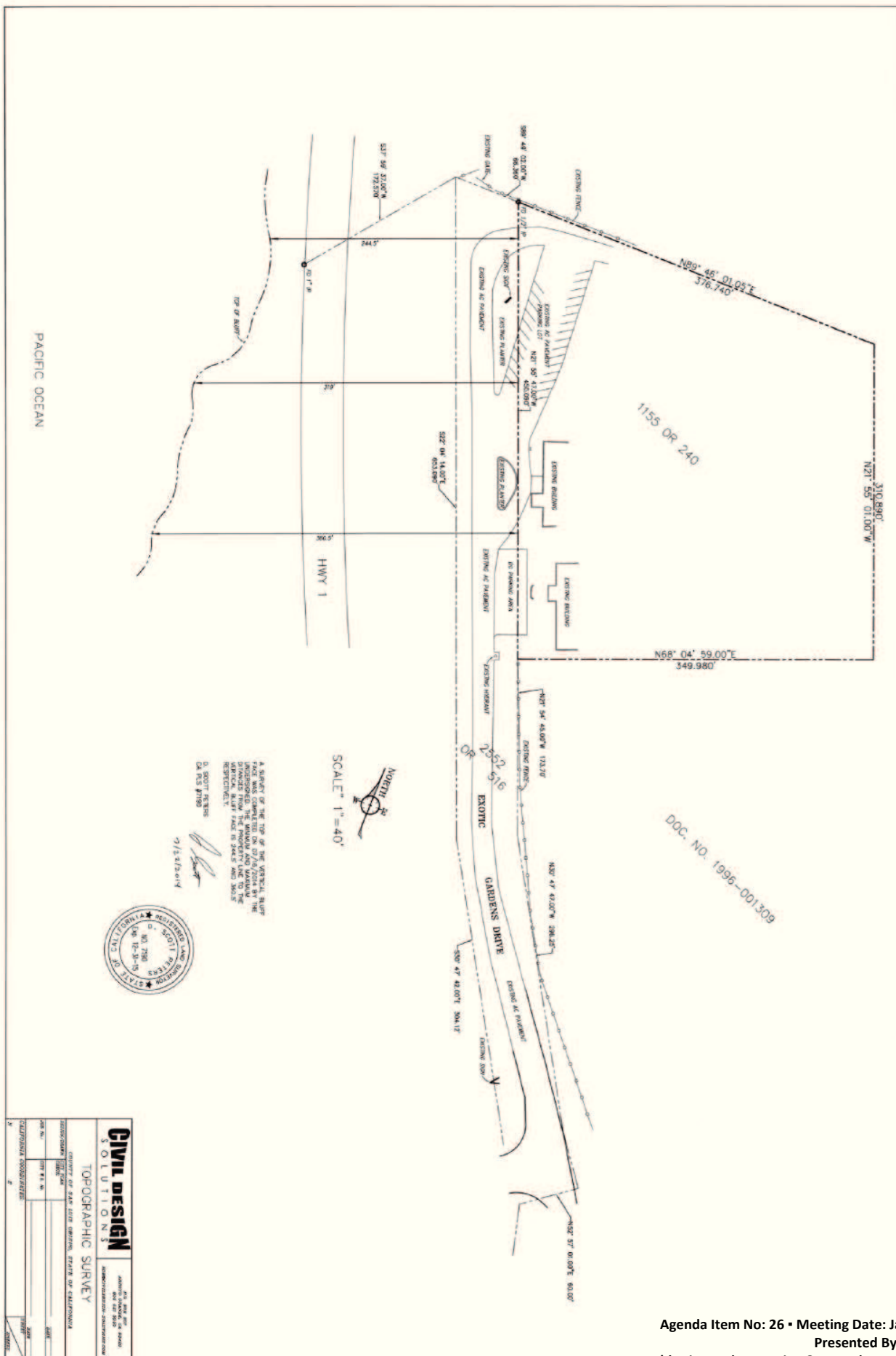
Mr. James Bergman, Planning Director, San Luis Obispo County Dept of Planning and Building

Mr. Dan Carl, Deputy Director, California Coastal Commission

Mr. Daniel Robinson, Coastal Planner, California Coastal Commission

P.O. Box 29 Cambria California 93428

cynthiahawley@att.net





Top: View of Hamlet grounds from southeast property line looking west, before development.

Bottom: View of project site from southeast property line looking west, after grading, demolition and water treatment facility development was underway (August 20, 2014)

Agenda Item No: 26 • Meeting Date: January 13, 2015

Presented By: Celeste Goyer

Revised: 10/20/2015



Top: View from west property line looking east, showing Building 6 (approved as greenhouses/ storage use only). Applicant demolished without permit and proposes rebuilding 'in kind' as retail-- but retail use was NOT approved for these shacks. (April 2012).

Bottom: View of project site from southwest property line looking north, after grading, demolition and water treatment facility development was underway. New elevator building on left, Building 4, unpermitted Day Spa, on right. (November 2, 2014)

Agenda Item No: 26 • Meeting Date: January 13, 2015
 Proposed by: Kellen Goyer
 Rec'd prior to the meeting & posted on: January 09, 2015



Top: View of project site from southwest corner of property line looking north, before demolition of buildings (April, 2012).

Bottom: View of project site from southwest corner of property line looking north, after demolition of buildings (August 2014).



Top: Trenching, excavation and underground construction. (July 31, 2014)

Bottom: Trenching, excavation and underground construction. (Sept. 12, 2014)

Agenda Item No: 26 • Meeting Date: January 13, 2015
 Presented By: Celeste Goyer
 Rec'd prior to the meeting & posted on: January 09, 2015



Top: New construction and expansion of footprint Building 1 (restaurant), stairway, entry decks and elevator building. (Sept. 9, 2014)

Bottom: New construction and expansion of footprint Building 1 (restaurant), stairway, entry decks and elevator building. (Sept. 3, 2014)

Agenda Item No: 26 • Meeting Date: January 13, 2015

Presented By: Celeste Goyer

Reviewed by: [Name] • Meeting Date: January 13, 2015



Top: Trenching and infrastructure in leach field, water treatment/septic system. (Sept. 8, 2014)

Bottom: Leach field with buried infrastructure, water treatment/septic system. (Sept. 8, 2014)

Agenda Item No: 26 • Meeting Date: January 13, 2015

Presented By: Celeste Goyer

Added to agenda meeting on January 09, 2015



PLANNING DEPARTMENT

Courthouse Annex

SAN LUIS OBISPO, CALIFORNIA - 93401

R791101:1

March 10, 1980

NOTICE OF APPROVAL OF AN APPLICATION
FOR USE OF LAND
REQUIRING DEPARTMENTAL REVIEW AND APPROVAL

An application has been filed by Norman Hamlet requesting a Departmental Review to allow the establishment of a restaurant, cocktail lounge, and gift shop in an existing building in the CH-D zone located on the east side of Highway One just north of the Highway One/Moonstone Beach Drive intersection approximately three miles north of Cambria; being a portion of Lot 2, Section 16, T27S, R8E, MDM, Assessor's Parcel Number 13-082-08.

Planning Staff review of the subject site and proposed use has revealed the following existing characteristics of the site and use:

- A. The 3.1 acre site is located on the east side of Highway One just north of its intersection with Moonstone Beach Drive approximately three miles north of Cambria. The site is irregular in shape and slopes downward moderately from west to east. Existing on the site are a 4,332 square foot, two-story main building, a detached guest residence, and numerous accessory structures and greenhouses. The structures were originally established for a former commercial gift shop, nursery, and demonstration garden operation known as Exotic Gardens which was authorized through the granting of Variances in 1961. The main building was used as a gift shop on the first floor and living quarters on the second floor but is now currently vacant. Vegetation on the site is extensive with various conifer trees around the perimeter and a large demonstration garden featuring succulents. Access to the site is provided by a 60 foot-wide paved easement which meets Highway One at its intersection with the northerly end of Moonstone Beach Drive. Although conditionally accepted by the Board of Supervisors, the access road will not be brought into the County maintained road system until it is improved to County standards. Water supply would be provided by the community water system of the Cambria Community Services District and sewage disposal is proposed to be handled by an existing on-site system. Three free standing signs advertising the former operation are located immediately off-site and are in varying stages of deterioration.
- B. The applicant proposes to establish a restaurant, cocktail lounge, and gift shop in the existing main building. A dining area with 56 seats at 13 tables, kitchen, restrooms, 360 square foot gift shop, and lobby/waiting area would be provided on the first floor. The second floor would contain 42 dining seats at 11 tables and a cocktail lounge with 43 seats at 13 tables and 14 bar stools. The wood exterior of the existing building would be sandblasted to a natural finish. A steel and plexiglass rotunda structure would be added to provide an entrance to the building and a stairway to the second floor. The rotunda structure would extend to the 18 foot height of the existing building for an overall height of 28 feet. 28 parking spaces in two lots and additional walkways and

Agenda Item No. 126 Meeting Date: January 13, 2015
Presented By: Celeste Goyer
Rec'd prior to the meeting & posted on: January 09, 2015

landscaping in front of the main building are also proposed. An informal overflow parking is also proposed. The applicant also intends to continue the existing nursery and demonstration garden use.

- C. The site is located in the highly scenic Highway One corridor approximately 3 miles north of Cambria and 6 miles south of San Simeon Acres. Land uses surrounding the site include vacant grazing land to the south and east, undeveloped San Simeon Beach State Park property to the north with the state park campground beyond, and Highway One to the west with undeveloped coastal bluffs beyond. The existing tourist commercial area along Moonstone Beach Drive is located further to the south of the site. The site is elevated above Highway One and is moderately to highly visible from the highway.

- D. The site was rezoned from A-1-S to CH-D on April 9, 1979 with the "D" requiring:

"Uses shall be limited to the existing nursery, gift shops and two residences plus a restaurant and associated cocktail lounge. The gift shop, restaurant, and cocktail lounge shall be accommodated only within the existing main two-story structure; minor additions and alterations to that structure for establishment of the restaurant and cocktail lounge use and redistribution of the existing uses within the structure are permitted subject to Department Review. The remaining structures on the site shall be maintained in their present uses or used for storage only for the restaurant and gift shop uses. Minor accessory structures related solely to the nursery use may be added subject to Departmental Review."

The site lies within the line of urban reserve on the "Area of Influence" map of the adopted 1964 Cambria Area General Plan but no precise land use designation is shown for the site. As part of the rezoning approval, the County Planning Commission and the Board of Supervisors found the adopted CH-D zoning for the site to be consistent with the Cambria General Plan.

Based upon the aforementioned characteristics of the site and use, the Planning Director will approve this application subject to the following conditions:

1. Site development to be consistent with the approved site plan. *(see revised site plan approved 6/10/81 W4)*
2. Building architecture to be consistent with approved elevations. *OK W4 1/21/82*
Any roof-mounted mechanical equipment shall be architecturally screened from view. If such units are proposed, submit revised architectural elevations indicating method of screening for Planning Department review and approval prior to issuance of a building permit. *OK W4 1/21/82*
4. Security lighting fixtures shall not project above the fascia or parapet of the building and are to be shielded. Parking lot and other pole mounted light fixtures shall not exceed 16 feet in height and shall be shielded from direct off-site viewing.
5. Submit detailed landscaping and irrigation plans in accordance with the Planning Department landscaping plan review policy for planning staff review and approval prior to issuance of a building permit. All proposed plant materials shall be sized to achieve a mature appearance within three years of installation. Said plans to provide for planting in front of the main building and screening vegetation along the north edge of the unpaved parking areas.

SITE INSPECTED 1/21/82
OK FOR RELEASE IF
OWNER AGREES TO
CONTAINING WHEEL STOPS
ON PLE LOT ARE
INSTALLED W4

BLDG
PERMIT #91847
ISSUED FOR
REMODELING
MAIN BLDG
6/10/81 W4

B.P. #42417
APPROVED
FOR STORAGE
BLDG. AUTHORIZED
FOR RELEASE
9/10/81 W4

OK
W4
6/10/81

6. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for prior to issuance of a certificate of occupancy or establishment of the use. If bonded for, landscaping shall be installed within 60 days of issuance of a certificate of occupancy or establishment of the use and thereafter maintained in a viable condition on a continuing basis.

Submit two sets of parking and driveway area grading and drainage plans for review and approval by the County Engineering Department prior to issuance of a building or grading permit. If so required by the County Engineering Department, said plans to be prepared by a Registered Civil Engineer.

Provide a minimum of 47 off-street parking spaces. ~~The driveway area and 10 parking spaces located in front of the new building shall be paved with a minimum of two inches of A.C. paving over rock base and the individual parking spaces shall be paint striped or otherwise indicated.~~ The remaining parking and access areas shall be improved with a minimum of red rock or other approved all-weather surfacing. All parking spaces shall be provided with concrete wheel stops or approved functional equivalent. All paved or otherwise surfaced areas shall be permanently maintained.

Use of the existing site septic system shall be approved by the County Planning and Health Departments prior to issuance of a building permit or establishment of the restaurant/cocktail lounge use.

The project shall be connected to the community water system.

Submit evidence from Cambria Community Services District indicating that the agency is willing and able to provide water to the project prior to issuance of a building or grading permit or establishment of the use.

Improve the access road from Highway One to the southern edge of the site to two-thirds (a minimum paved width of 20 feet) of the County A-5 rural standard. Said improvements to be constructed under an inspection agreement and encroachment permit issued by the County Engineering Department, and shall be completed or bonded for prior to issuance of a certificate of occupancy or establishment of the use.

Provide evidence of having obtained any necessary approvals from Cal Trans for the increased volume in traffic generated by the project via the access road to Highway One prior to issuance of a building permit or establishment of the use.

Site and building plans shall be reviewed by the following agencies. Provide the Planning Department with letters or other documentation verifying review and any requirements from these agencies prior to issuance of a building permit or establishment of the use:

- a. Cambria Fire Department ✓ Rott-Cullen/Wt 6/10/81
- b. County Health Department. ✓ Steve Canna/Rott 6/2/81

15. The proposed use of the structure for restaurant and cocktail lounge purposes shall be subject to review and approval of the change in building occupancy by the Building Inspection Section of the Planning Department prior to issuance of a certificate of occupancy or establishment of the use.

16. All trash disposal areas shall be screened from view with a solid wall or solid fencing. Submit drawings of screening structures prior to issuance of a building permit and install said approved screening prior to final building inspection.

3

- may use
see 22-04-310
of LVO instead
of Hwy 1/2/22
17. No outdoor storage, or any accumulation of trash, debris, or packing materials shall be permitted, except in areas entirely enclosed by six-foot solid wood or masonry fencing. Materials so stored shall not be stacked higher than the fence.
 18. On-site signing shall be limited to an aggregate area of ²⁰~~20~~ square feet for the entire project site, not to exceed the height of the building. All signing to be reviewed and approved by the Development Review Section of the Planning Department prior to issuance of a building permit or sign permit. Flashing or rotating signs and wind-activated devices are prohibited. Signs on buildings shall be mounted flush with the building face.
 19. The existing off-site signs for the former operation shall be removed prior to issuance of a certificate of occupancy or establishment of the use. The free-standing sign at the intersection of the access road and Highway One may remain but the message on it shall be directional only with no advertising; area and height of that sign not to exceed 10 square feet and 8 feet respectively.
 20. Removal of any trees over 8 inches in diameter 4 feet above grade is not approved at this time; future removal of such trees shall be subject to first obtaining a tree removal permit per the procedures specified in Title 19 of the County Code.
 21. No further additions to, or different uses of, the main building beyond those authorized by this approval shall be allowed, per the requirements of the CH-D zoning. The remaining structures shall be maintained in their present uses or used for storage for the restaurant and gift shop uses. Minor accessory structures related solely to the nursery use may be added subject to Departmental Review.
 22. If the use authorized by any Departmental Review approval is or has been unused, abandoned, discontinued and use has not been established or has ceased for a period of twelve (12) months, or the conditions have not been complied with, said Departmental Review approval shall become null and void and of no effect. The Planning Director may continue the Departmental Review approval for additional periods of six (6) months if, for reasons beyond the control of the applicant, the use has not been established. A written request to extend the date and sufficient evidence showing the applicant's inability to comply must be filed with the Planning Department ten (10) days prior to the expiration date of approval.

Compliance with the conditions listed above will enable the following required findings to be made.

- a. The subject site is adequate in terms of size, shape, yard spaces, screening, parking and loading areas, landscaping and other features required by this Ordinance to adjust said use with the land uses in the neighborhood.
- b. The site is served by public roads of a standard adequate to carry any traffic generated by the proposed use.
- c. The proposed use will have no adverse affect on abutting property or the permitted use thereof.
- d. That the establishment and continuance of this proposed use will not be detrimental to the health, safety, morals or welfare of persons residing or working in the neighborhood of such use, and will not be detrimental to public welfare, injurious to property, inconsistent with the character of the neighborhood or contrary to its orderly development, nor shall conditions created by the use be inordinant to the normal traffic volume.

This land use entitlement does not relieve the applicant from the responsibility of obtaining a building or grading permit from the Planning Department prior to any construction.

If an appeal to the above decision has not been filed prior to March 20, 1980, said application shall be deemed approved.

Prepared by

Warren Hoag
Warren Hoag, Supervisor
Development Review Section

2V



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

February 17, 2012

Jamie Kirk
Kirk Consulting

Atascadero, CA 93422

SUBJECT: Substantial Conformity for R791101:1 / Centrally Grown request

Dear ^{Jamie}Jamie Kirk:

The land use permit and the environmental determination approved for the above-referenced project have been reviewed and the county has determined that the proposed changes outlined in your request dated February 6, 2012 are in substantial conformity:

- ☐ Satisfies all conditions of approval
- ☐ Conforms to environmental determination
- ☒ Other: Substantially conforms to Departmental Review R791101:1 approved on March 10, 1980

Description of proposed changes:

Renovation of the 'Hamlet' property, including upgrading the site and the existing structures to meet current Americans with Disabilities Act accessibility requirements and State and County Building Code requirements. Specific changes are outlined in the February 6, 2012 request from Jamie Kirk representing Centrally Grown, Inc. (attached to this determination).



Supervising Planner
Department of Planning & Building

Agenda Item No: 26 • Meeting Date: January 13, 2015

976 OSOS STREET, ROOM 300

• SAN LUIS OBISPO

• CALIFORNIA 93408

• (805) 781-5600

Presented By: Celeste Goyer

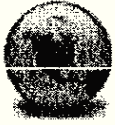
Rec'd prior to the meeting & posted on: January 09, 2015

EMAIL: planning@co.slo.ca.us

• FAX: (805) 781-1242

• WEBSITE: <http://www.sloplanning.org>

Page 28 of 29



Archive:

{In Archive} Centrally Grown

grega@ufsworks.com to: rfitzroy@co.slo.ca.us

Cc: "grega@ufsworks.com"

04/07/2014 05:47 PM

This message is being viewed in an archive.

Rob:

I hope you had a good weekend. As a follow-up to our conversation on Friday, we will take you up on your offer to make an inquiry of your internal team regarding the following:

- Can we knock-down one or more of the ancillary buildings on site and rebuild it?
- If so, is there a time requirement in which the replacement building must be started and completed once the old building is knocked down?

Please let me know your timing for a response, as we have construction crews on site with excess capacity to begin on this portion of the project. I look forward to your response.

Thanks!

Greg Apostolou
President & Chief Executive Officer

Universal Financial Systems

grega@ufsworks.com | www.ufsworks.com

Important: This message is intended solely for use by the individual/company to whom it is addressed and may contain information that is confidential and legally/medically privileged. If the reader of this message is not the intended addressee, you are hereby notified that any disclosure, copying, distribution or use of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone, e-mail, or mail and destroy the message without reading it. Thank you.